

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION**

**WYATT FINCH, JR.,**

# Plaintiff

**VS.**

**STATE FARM FIRE AND CASUALTY  
COMPANY, DONNY HOLLEY, et al.**

## Defendants.

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**CIVIL ACTION NO:  
3:07cv-952-MHT**

**MOTION TO CONSOLIDATE MULTIPLE PROCEEDINGS FOR PURPOSES OF  
REMAND**

Comes now the plaintiff, Wyatt Finch, Jr., by and through undersigned counsel and moves this Honorable Court for an Order consolidating initial proceedings in several civil actions presently before the District Court based upon the removal filed by the defendants to this action. As grounds therefore the plaintiff would show as follows:

1. This matter is before the Court because of the removal notice filed by the defendants claiming fraudulent joinder.
2. On October 25, 2007 Your Honor disposed of the defendants' motion to dismiss the plaintiff's claims against the underlying non-diverse defendant agent Donny Holley.
3. The basis for removal of this action and the motion to dismiss filed in this action are identical to the removal notices and motions to dismiss filed in each of the following actions:

- a. Hawkins v. State Farm Fire and Casualty Company et al 3:07-cv-953
  - b. Lowery v. State Farm Fire & Casualty Company et al 3:07-cv-954
  - c. Thomas et al v. State Farm Fire and Casualty Company et al 3:07-cv-955
  - d. Hutchison v. State Farm Fire & Casualty Company et al 3:07-cv-956
  - e. Kirk v. State Farm Fire & Casualty Company et al 3:07-cv-957
  - f. Kelley v. State Farm Fire and Casualty Company et al 3:07-cv-958
4. Joinder is proper of these matters pursuant to Rule 20 of the Federal Rules of Civil Procedure for each of the following reasons:
- a. Because your Honor has already ruled upon the motion to dismiss in the earliest filed case in this group of cases.
  - b. Because each of these cases raise identical issues of law and fact that will determine the propriety of removal in each of these cases.
  - c. Because in each of these cases the defendant has filed an identical motion to dismiss that Your Honor has already denied.
  - d. Because the attorneys for all of the parties are identical in all of these actions.

- e. Because joinder of these claims for purposes of deciding the motions to dismiss and remand issues is proper and practical under Rule 20 of the Federal Rules of Civil Procedure.
- f. Further, if for some reason the Court held that these matters should not be remanded, consolidation for purposes of discovery would be appropriate and practical under the Federal Rules of Civil Procedure as well since each complaint raises identical claims against each defendant.

Wherefore, Premises considered, the plaintiff moves Your Honor for an Order consolidating the cases listed in paragraph 3(a)-(f) for purposes of ruling on the motion to dismiss filed in each case and determining if remand is appropriate upon filing of the motion to remand by counsel for the plaintiffs and if remand is not appropriate then for purposes of consolidated discovery.

So moved this 26<sup>th</sup> day of October 2007.

/s/ Nick Wooten  
Nick Wooten  
David Hodge  
Attorneys for Plaintiffs

OF COUNSEL:

WOOTEN LAW FIRM, P.C.  
Trial Lawyers  
P.O. Drawer 290  
Lafayette, Al. 36862  
(334) 864-2132  
(334) 864-2133 facsimile

PITTMAN, HOOKS, DUTTON, KIRBY & HELLUMS, P.C.  
1100 Park Place Tower  
2001 Park Place North  
Birmingham, Alabama 35203  
(205) 322-8880  
(205) 328-2711 facsimile

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing upon the Defendants on this the 26<sup>th</sup> day of October 2007 by the following method(s): service by the ECF system upon:

Hon. James H. Anderson  
Beers, Anderson, Jackson,  
Patty & Van Heest, P.C.  
P.O. Box 1988  
Montgomery, AL 36102

/s/ Nick Wooten  
Of Counsel